

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

BEVERLY BIGGS-LEAVY,

Plaintiff,

v.

Case No. 23-12123

LADEL LEWIS,

Sean F. Cox

United States District Court Judge

Defendant.

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SECOND ORDER REGARDING MOTION TO DISMISS

On November 13, 2023, Defendant filed a Motion to Dismiss. (ECF No. 11).

In an Order issued on November 15, 2023, this Court advised Plaintiff of the motion and explained that “Plaintiff is presented with a choice of how to proceed, given that a Motion to Dismiss has been filed. Within twenty one days of today’s date, Plaintiff may either: 1) file an amended complaint, in which case this Court will deny without prejudice the currently pending Motion to Dismiss as moot; OR 2) file a response to the pending Motion to Dismiss, and the Court will decide the motion based upon the existing complaint.” (ECF No. 12).

After Plaintiff failed to file a response to the motion or an amended complaint, in an Order issued on December 18, 2023, this Court ordered “Plaintiff to **SHOW CAUSE, in writing, no later than December 26, 2023**, why the unopposed Motion to Dismiss should not be granted.”

In response to that Order, Plaintiff’s counsel claim that they did not receive some of the filings in this case due to technical issues, and ask that they be allowed to file an amended complaint, in order to attempt to cure any pleading deficiencies.

Having reviewed that response, and having heard from defense counsel as well, in an Order issued on January 4, 2024, this Court ORDERED “**that Plaintiff may file an amended complaint no later than January 10, 2024.**” Plaintiff’s counsel are advised that they must take any actions necessary to assure they receive all electronic notices from this Court. Plaintiff’s must also file timely responses to any future motions in this case.” (ECF No. 16) (emphasis in original).

Nevertheless, Plaintiff failed to do so. Accordingly, under these circumstances, the Court **ORDERS** that briefing on the pending motion is **CLOSED** and the Court shall determine the pending motion without a hearing. Local Rule 7.1(f).

IT IS SO ORDERED.

s/Sean F. Cox

Sean F. Cox

United States District Judge

Dated: January 12, 2024